

ESTTA Tracking number: **ESTTA388576**

Filing date: **01/14/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91194547
Party	Plaintiff PayPal, Inc.
Correspondence Address	JAMES R. CADY HOWREY LLP 550 SOUTH HOPE STREET, SUITE 1100 LOS ANGELES, CA 90071 UNITED STATES cravenk@howrey.com
Submission	Motion to Compel Discovery
Filer's Name	James R. Cady
Filer's e-mail	cadyj@howrey.com,ghajarb@howrey.com,herrings@howrey.com,renojo@howrey.com,ipdocketing@howrey.com
Signature	/JRCady/
Date	01/14/2011
Attachments	PayPal's Motion to Compel.pdf (6 pages)(291695 bytes) Cady Decl ISO PayPal's Motion to Compel.pdf (59 pages)(2791992 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Applications of:	§	Opposition No. 91194547 (parent case);
	§	Opposition No. 91195303
	§	
The Cannon Group of	§	
Companies, d/b/a GunPal	§	
	§	International Class: 36
Serial Nos.: 77/784,325	§	
	§	Published: December 8, 2009
Filed: July 18, 2009	§	
	§	
Marks: GUNPAL; GPAL	§	

Commissioner for Trademarks
P. O. Box 1451
Alexandria, VA 22313-1451

OPPOSER PAYPAL, INC'S MOTION TO COMPEL DISCOVERY RESPONSES

Opposer PayPal, Inc. ("PayPal") files this motion to compel against Applicant, The Cannon Group of Companies d/b/a GunPal, Inc. ("GunPal"), seeking GunPal's initial disclosures, as well as responses to PayPal's First Set of Interrogatories, First Set of Requests for Admission, and First Set of Requests for Production of Documents. GunPal has failed to serve disclosures or respond to PayPal's discovery requests, and apparently wishes to take a unilateral extension of time to produce its responses.

PayPal requests that the Board order GunPal to immediately serve its initial disclosures, and immediately and fully respond to PayPal's interrogatories, requests for admission, and requests for production of documents. PayPal also requests that GunPal's objections to PayPal's discovery requests, if any, be deemed waived due to GunPal's failure to timely respond, and that each of PayPal's requests for admission to GunPal be deemed admitted. PayPal further requests the Board to order GunPal to immediately produce its responsive documents to PayPal's counsel,

either by copying and Bates labeling them and sending them to PayPal, or by making them available for PayPal to pick up, copy, and Bates label (the cost of which should be borne by GunPal).

I. BACKGROUND

This case is a consolidation of two separate oppositions: the first, PayPal's opposition against GunPal's GUNPAL mark, was filed on April 2, 2010, Opposition No. 91194547 (the "GUNPAL Case"). The second, PayPal's opposition against GunPal's GPAL mark, was filed on June 8, 2010, Opposition No. 91195303 (the "GPAL Case"). Discovery in the GUNPAL Case opened June 25, 2010, with initial disclosures due July 25. GUNPAL Case, Dkt. No. 2. In the GPAL Case, discovery opened on August 25, 2010, with initial disclosures due September 24. GPAL case, Dkt. No. 2. On July 22, 2010, PayPal filed a motion to consolidate these two cases, and on September 1, the Board ordered the cases consolidated, with a new discovery period opening October 30 and initial disclosures due November 29. GUNPAL Case, Dkt. Nos. 5, 6. At no time did the Board suspend the GUNPAL Case or the GPAL Case.

The parties held their disclosure, discovery, and settlement conference on October 4, 2010. Declaration of James R. Cady ("Cady Decl."), ¶3. Also on that date, PayPal served its initial disclosures, as well as its first set of interrogatories, requests for admission, and requests for production via email as agreed upon by the parties. Cady Decl, Exhs. A-E. Thus, whether counting from the October 4 service date or the October 30 opening of discovery for the consolidated case, GunPal's responses are long overdue.

II. GUNPAL HAS COMPLETELY IGNORED PAYPAL'S GOOD FAITH EFFORTS TO RESOLVE THESE ISSUES

GunPal has failed to meaningfully respond to any of PayPal's numerous efforts to discuss and ultimately resolve these issues. On December 10, 2010, PayPal sent GunPal an email reattaching its discovery requests and reminding GunPal that its disclosures were due on November 29 and that PayPal had yet to receive GunPal's responses to PayPal's discovery requests. Cady Decl., Exh. A. That email requested a response from GunPal by no later than December 14. *Id.* GunPal did not respond to that email. Cady Decl., ¶ 4.

Ten days later, PayPal again emailed GunPal regarding GunPal's disclosures and PayPal's discovery requests. Cady Decl., Exh. G. Again, GunPal did not respond. *Id.* at ¶ 4. On December 28, PayPal yet again emailed GunPal about its delinquent discovery, this time stating that if GunPal did not serve its discovery by January 3, 2011, PayPal would file a motion to compel. *Id.* at Exh. H.

On January 1, GunPal finally emailed PayPal in response to PayPal's numerous emails. *Id.* at Exh. I. In its email, GunPal stated that it would have a better sense as to when it could address PayPal's discovery around January 6, 2011, but GunPal estimated it would not be able to produce its responsive documents until January 30. *Id.* GunPal's email did not address GunPal's overdue discovery responses or GunPal's overdue initial disclosures. *Id.* On January 10, 2011, PayPal emailed GunPal one more time to remind them about their delinquent discovery and lack of further response regarding an estimated time to produce responsive documents. PayPal's email stated that if GunPal did not serve its initial disclosures and discovery by January 13, 2011, PayPal would proceed with filing of this motion. *Id.* As of the filing date of this

motion, PayPal has yet to receive GunPal's initial disclosures, discovery responses, and responsive documents. *Id.* at ¶ 9.

III. THE BOARD SHOULD ORDER GUNPAL TO IMMEDIATE PROVIDE ITS RESPONSES, INITIAL DISCLOSURES, AND DOCUMENTS

As explained above, GunPal's responses, initial disclosures, and document production are long overdue. Therefore, the Board should order GunPal to immediately produce these to PayPal's counsel.

IV. GUNPAL'S REQUESTS FOR ADMISSION SHOULD BE DEEMED ADMITTED

There are consequences for a party's failure to timely answer requests for admissions. Because GunPal has failed to timely respond to PayPal's requests for admission, each request should be deemed admitted by GunPal. *See Click & Park, LLC v. Park On Line, Inc.*, 2009 TTAB LEXIS 612, *8-*9 (T.T.A.B. 2009) (all requests for admission deemed admitted because party "did not make any attempt to submit either its answers or objections in a timely fashion"); Fed. R. Civ. P. 36(a)(3).

V. GUNPAL'S OBJECTIONS SHOULD BE DEEMED WAIVED

Likewise, because GunPal has failed to timely respond to any of PayPal's discovery requests, all objections to PayPal's discovery should be deemed waived. *See M.C.I. Foods, Inc. v. Bunte*, 86 U.S.P.Q.2d 1044, *7, n. 6 (T.T.A.B. 2010) (because party failed to timely respond to discovery requests, it waived any objections thereto); Fed. R. Civ. P. 33(b)(4).

VI. CONCLUSION

For the foregoing reasons, PayPal respectfully requests the Board to issue an Order:

- 1) requiring GunPal to immediately respond to PayPal's First Set of Interrogatories;
- 2) requiring GunPal to immediately respond to PayPal's First Set of Requests for Production;
- 2) requiring GunPal to immediately produce all responsive documents;
- 3) deeming each of PayPal's First Requests for Admission admitted by GunPal, or in the alternative deeming all objections to PayPal's First Requests for Admission waived; and
- 4) deeming all objections to PayPal's First Set of Interrogatories and First Set of Requests for Production waived.

Respectfully submitted,

PAYPAL INC.

Date: January 14, 2011

By: 

Bobby A. Ghajar

James R. Cady

Seth B. Herring

HOWREY LLP

550 South Hope Street, Suite 1100

Los Angeles, California 90071

(213) 892-1800

Attorneys for Opposer

OF COUNSEL:

Mike M. Yaghmai, Esq.

PayPal Inc.

2145 Hamilton Avenue

San Jose, California 95125

CERTIFICATE OF ELECTRONIC TRANSMISSION

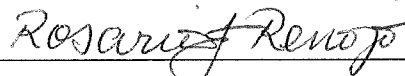
DATE OF DEPOSIT: January 14, 2011

I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office Trademark Trial and Appeal Board using the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated above.


James R. Cady

CERTIFICATE OF SERVICE

I, Rosario F. Renojo, secretary to James R. Cady, of Howrey LLP, attorneys for Opposer PayPal Inc., hereby certify that a true and complete copy of the foregoing OPPOSER PAYPAL, INC'S MOTION TO COMPEL DISCOVERY RESPONSES was served on Applicant, Benjamin P. Cannon, The Cannon Group of Companies d/b/a GunPal, Inc., 1083 Vine Street, #215, Healdsburg, CA 95448 via postage prepaid first-class mail and via electronic mail to ben.cannon@gpal.net on January 14, 2011.



Rosario F. Renojo

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Applications of:	§ Opposition No. 91194547 (parent case); Opposition No. 91195303
The Cannon Group of Companies, d/b/a GUNPAL	§
Serial No.: 77/784,325	§ International Class: 36
Filed: July 18, 2009	§
Marks: GUNPAL; GPAL	§ Published: December 8, 2009
	§
	§
	§

Commissioner for Trademarks
P. O. Box 1451
Alexandria, VA 22313-1451

**DECLARATION OF JAMES R. CADY IN SUPPORT OF PAYPAL, INC.'S
MOTION TO COMPEL**

I, James R. Cady, declare as follows:

1. I am an attorney at law licensed to practice in front of the T.T.A.B. and am a member of the law firm Howrey LLP, attorneys of record for Opposer, PayPal, Inc. ("PayPal").
2. The matters stated in this declaration are based upon my own personal knowledge, except where otherwise indicated, and if called as a witness I could and would testify competently thereto.
3. On October 4, 2010, the parties held their disclosure, discovery, and settlement conference, at which time they agreed to, among other things, accept service via email.
4. Attached hereto as **EXHIBIT A** is a true and correct copy of the entire chain of emails from me and my assistant, Ro Renojo, to Mr. Ben Cannon, sent on October 4, 2010 (from Ms. Renojo at my request); December 10, 2010; December 20, 2010; December 28, 2010; and January 10, 2010; and with one email from Mr. Ben Cannon to me on January 1, 2011. Attached to the emails sent on October 4, 2010 and the subsequent emails sent on December 10,

20 and 28 were PayPal's initial disclosures, PayPal's First Set of Interrogatories, First Set of Requests for Admission, and First Set of Requests for Production of Documents were all attached to the emails sent on October 4, December 10, December 20 and December 28, 2010. Mr. Cannon failed to respond to any of PayPal's emails except for his January 1, 2011 response to PayPal's email of December 28, 2010. As of the filing of this motion, Mr. Cannon has not responded to PayPal's email of January 10, 2011.

5. Attached hereto as **EXHIBIT B** is a true and correct copy of PayPal's initial disclosures, served October 4, 2010.

6. Attached hereto as **EXHIBIT C** is a true and correct copy of PayPal's First Set of Interrogatories, served October 4, 2010.

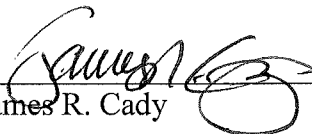
7. Attached hereto as **EXHIBIT D** is a true and correct copy of PayPal's First Set of Requests for Admission, served October 4, 2010.

8. Attached hereto as **EXHIBIT E** is a true and correct copy of PayPal's First Set of Requests for Production of Documents, served October 4, 2010.

9. As of the filing of this motion, Applicant The Cannon Group of Companies has failed to serve its initial disclosures, as well as responses to PayPal's First Set of Interrogatories, Requests for Admission, and Requests for Production.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 14th day of January, 2011, at East Palo Alto, California.


James R. Cady

CERTIFICATE OF ELECTRONIC TRANSMISSION

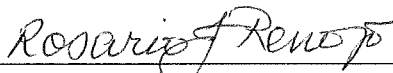
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James R. Cady

CERTIFICATE OF SERVICE

I, Rosario F. Renojo, secretary to James R. Cady, of Howrey LLP, attorneys for Opposer PayPal Inc., hereby certify that a true and complete copy of the foregoing DECLARATION OF JAMES R. CADY IN SUPPORT OF PAYPAL, INC'S MOTION TO COMPEL was served on Applicant, Benjamin P. Cannon, The Cannon Group of Companies d/b/a GunPal, Inc., 1083 Vine Street, #215, Healdsburg, CA 95448 via postage prepaid first-class mail and via electronic mail to ben.cannon@gpal.net on January 14, 2011.



Rosario F. Renojo

EXHIBIT A

Renojo, Ro

From: Renojo, Ro
Sent: Monday, October 04, 2010 6:07 PM
To: 'ben.cannon@gpal.net'
Cc: Cady, Jim; Ghajar, Bobby
Subject: PayPal - Opposition against Trademark Applications for GUNPAL and GPAL
Attachments: PayPal v GunPal - 2010.10.04 PayPal's Initial Disclosures.pdf; PayPal v GunPal - 2010.10.04 PayPal's 1st Set of Interrogatories.pdf; PayPal v GunPal - 2010.10.04 PayPal's 1st Set of RFA.pdf; PayPal v GunPal - 2010.10.04 PayPal's 1st Set of RFP.pdf

Tracking:	Recipient	Delivery
	'ben.cannon@gpal.net'	
	Cady, Jim	Delivered: 10/4/2010 6:08 PM
	Ghajar, Bobby	Delivered: 10/4/2010 6:08 PM

Dear Mr. Cannon:

Attached please find PayPal, Inc.'s Initial Disclosures and First Set of Discovery Requests.

Ro Renojo
Secretary to JAMES R. CADY
 TRADEMARK DEPARTMENT

HOWREY LLP
 1950 University Avenue, 4th Floor
 East Palo Alto, CA 94303
 Direct: +1 650.798.3558
 Fax: +1 650.798.3600
 RenojoR@howrey.com
 www.howrey.com

Amsterdam Brussels Chicago **East Palo Alto** Dusseldorf Houston Irvine London Los Angeles Madrid
 Munich New York Northern Virginia Paris Salt Lake City San Francisco Taipei Washington DC

Renojo, Ro

From: SVC-EXCH-ADC
Sent: Monday, October 04, 2010 6:08 PM
To: Renojo, Ro
Subject: Delivery Status Notification (Relay)

Attachments: ATT1524861.txt; PayPal - Opposition against Trademark Applications for GUNPAL and GPAL



ATT1524861.txt PayPal - Opposition
against Tr...

This is an automatically generated Delivery Status Notification.

Your message has been successfully relayed to the following recipients, but the requested delivery status notifications may not be generated by the destination.

ben.cannon@gpal.net

Renojo, Ro

From: Cady, Jim
Sent: Friday, December 10, 2010 6:03 PM
To: Ben Cannon
Cc: Ghajar, Bobby; Renojo, Ro
Subject: FW: PayPal - Opposition against Trademark Applications for GUNPAL and GPAL
Attachments: PayPal v GunPal - 2010.10.04 PayPal's Initial Disclosures.pdf; PayPal v GunPal - 2010.10.04 PayPal's 1st Set of Interrogatories.pdf; PayPal v GunPal - 2010.10.04 PayPal's 1st Set of RFA.pdf; PayPal v GunPal - 2010.10.04 PayPal's 1st Set of RFP.pdf

Dear Mr. Cannon,

We are writing to follow up on a couple of matters.

First, as you may recall, your initial disclosures were due no later than November 29, 2010, and we have not yet received them. Second, we remind you of our discovery requests served to you on October 4, 2010.

If you mailed us your initial disclosures, responses and accompanying documents, we have not yet received them. Please advise and let us know when we will receive the responses. We ask that you get back to us no later than Tuesday, December 14, 2010.

Regards,
Jim

James R. Cady
Senior Associate

HOWREY LLP
1950 University Avenue, 4th Floor
East Palo Alto, CA 94303
Direct: +1 650.798.3617
Fax: +1 650.429.2078
CadyJ@howrey.com
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www.howrey.com

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Munich New York Northern Virginia Paris Salt Lake City San Francisco Taipei Washington DC

Renojo, Ro

From: Cady, Jim
Sent: Monday, December 20, 2010 5:32 PM
To: Ben Cannon
Cc: Ghajar, Bobby; Renojo, Ro
Subject: FW: PayPal - Opposition against Trademark Applications for GUNPAL and GPAL
Attachments: PayPal v GunPal - 2010.10.04 PayPal's Initial Disclosures.pdf; PayPal v GunPal - 2010.10.04 PayPal's 1st Set of Interrogatories.pdf; PayPal v GunPal - 2010.10.04 PayPal's 1st Set of RFA.pdf; PayPal v GunPal - 2010.10.04 PayPal's 1st Set of RFP.pdf

Dear Mr. Cannon,

This is a reminder that we need your response to our message below. We have not received your responses to our discovery requests, not have we received your initial disclosures.

Please respond no later than this Wednesday, December 22, 2010, and let us know when we will receive your responses and documents.

Regards,
Jim

James R. Cady
Senior Associate

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1950 University Avenue, 4th Floor
East Palo Alto, CA 94303
Direct: +1 650.798.3617
Fax: +1 650.429.2078
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Regards,

1/14/2011

Jim

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1/14/2011

Renojo, Ro

From: Cady, Jim
Sent: Tuesday, December 28, 2010 12:11 PM
To: Ben Cannon
Cc: Ghajar, Bobby; Renojo, Ro; Herring, Seth
Subject: FW: PayPal - Opposition against Trademark Applications for GUNPAL and GPAL
Attachments: PayPal v GunPal - 2010.10.04 PayPal's Initial Disclosures.pdf; PayPal v GunPal - 2010.10.04 PayPal's 1st Set of Interrogatories.pdf; PayPal v GunPal - 2010.10.04 PayPal's 1st Set of RFA.pdf; PayPal v GunPal - 2010.10.04 PayPal's 1st Set of RFP.pdf

Dear Mr. Cannon,

This is a final reminder that we need your response to our messages below.

If we do not receive your responses to our discovery requests, the accompanying documents, and your initial disclosures by Monday, January 3, 2010, we will file a motion to compel.

Regards,

James R. Cady
Senior Associate

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East Palo Alto, CA 94303
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Sent: Monday, December 20, 2010 5:32 PM
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Regards,
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Regards,
Jim

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Renojo, Ro

From: Cady, Jim
Sent: Monday, January 10, 2011 7:33 PM
To: Ben Cannon
Cc: Ghajar, Bobby; Herring, Seth; Renojo, Ro
Subject: FW: PayPal - Opposition against Trademark Applications for GUNPAL and GPAL

Dear Ben,

You indicated that you needed to wait till you got back in the office on January 6th to address an ETA for our discovery. We have still not heard from you since then.

We are happy to speak to you about our discovery concerns. However, we will not be able to wait until January 30th to get your responses and documents. Your initial disclosures, responses and documents have been overdue for several weeks now and you have had plenty of time to provide us with them. We have had to send numerous reminders just to get your response, which is to suggest that you want even more time.

We will need to receive your initial disclosures, responses and documents by Thursday, January 13th. If we do not receive those documents by then, we will file a motion to compel with the Board.

Regards,
Jim

James R. Cady
Senior Associate

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1950 University Avenue, 4th Floor
East Palo Alto, CA 94303
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Direct Fax: +1 650.798-3600
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CadyJ@howrey.com
www.howrey.com

Brussels Chicago Düsseldorf **East Palo Alto** Houston Irvine London Los Angeles Madrid
Munich New York Northern Virginia Paris Salt Lake City San Francisco Washington DC

From: Ben Cannon [mailto:ben.cannon@gpall.net]
Sent: Saturday, January 01, 2011 2:52 PM
To: Cady, Jim
Cc: Ghajar, Bobby; Renojo, Ro; Herring, Seth
Subject: Re: PayPal - Opposition against Trademark Applications for GUNPAL and GPAL

Hello Jim - I will be back in the office Jan 6, at that time we can address an ETA for your discovery. The documents PayPal has requested are quite extensive, and we are a small company with limited resources. I estimate we will be able to complete the process by Jan 30, thank you for your patience and understanding - and Happy New Year.

Sent from my iPhone4

On Dec 28, 2010, at 12:11 PM, "Cady, Jim" <CadyJ@howrey.com> wrote:

1/14/2011

Dear Mr. Cannon,

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Sent: Friday, December 10, 2010 6:03 PM
To: 'Ben Cannon'
Cc: Ghajar, Bobby; Renojo, Ro
Subject: FW: PayPal - Opposition against Trademark Applications for GUNPAL and GPAL

1/14/2011

Dear Mr. Cannon,

We are writing to follow up on a couple of matters.

First, as you may recall, your initial disclosures were due no later than November 29, 2010, and we have not yet received them. Second, we remind you of our discovery requests served to you on October 4, 2010.

If you mailed us your initial disclosures, responses and accompanying documents, we have not yet received them. Please advise and let us know when we will receive the responses. We ask that you get back to us no later than Tuesday, December 14, 2010.

Regards,

Jim

James R. Cady
Senior Associate

HOWREY LLP

1950 University Avenue, 4th Floor

East Palo Alto, CA 94303

Direct: +1 650.798.3617

Fax: +1 650.429.2078

CadyJ@howrey.com

www.howrey.com

Amsterdam Brussels Chicago Düsseldorf **East Palo Alto** Houston Irvine London Los Angeles Madrid
Munich New York Northern Virginia Paris Salt Lake City San Francisco Taipei Washington DC

From: Renojo, Ro

Sent: Monday, October 04, 2010 6:07 PM

To: ben.cannon@gpal.net

Cc: Cady, Jim; Ghajar, Bobby

Subject: PayPal - Opposition against Trademark Applications for GUNPAL and GPAL

Dear Mr. Cannon:

Attached please find PayPal, Inc.'s Initial Disclosures and First Set of Discovery Requests.

Ro Renojo

Secretary to JAMES R. CADY

TRADEMARK DEPARTMENT

HOWREY LLP

1950 University Avenue, 4th Floor

East Palo Alto, CA 94303

Direct: +1 650.798.3558

Fax: +1 650.798.3600

RenojoR@howrey.com

www.howrey.com

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Munich New York Northern Virginia Paris Salt Lake City San Francisco Taipei Washington DC

<PayPal v GunPal - 2010.10.04 PayPal's Initial Disclosures.pdf>

<PayPal v GunPal - 2010.10.04 PayPal's 1st Set of Interrogatories.pdf>

<PayPal v GunPal - 2010.10.04 PayPal's 1st Set of RFA.pdf>

<PayPal v GunPal - 2010.10.04 PayPal's 1st Set of RFP.pdf>

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Renojo, Ro

From: Ben Cannon [ben.cannon@gpal.net]
Sent: Saturday, January 01, 2011 2:52 PM
To: Cady, Jim
Cc: Ghajar, Bobby; Renojo, Ro; Herring, Seth
Subject: Re: PayPal - Opposition against Trademark Applications for GUNPAL and GPAL

Hello Jim - I will be back in the office Jan 6, at that time we can address an ETA for your discovery. The documents PayPal has requested are quite extensive, and we are a small company with limited resources. I estimate we will be able to complete the process by Jan 30, thank you for your patience and understanding - and Happy New Year.

Sent from my iPhone4

On Dec 28, 2010, at 12:11 PM, "Cady, Jim" <CadyJ@howrey.com> wrote:

Dear Mr. Cannon,

This is a final reminder that we need your response to our messages below.

If we do not receive your responses to our discovery requests, the accompanying documents, and your initial disclosures by Monday, January 3, 2010, we will file a motion to compel.

Regards,

James R. Cady
Senior Associate

HOWREY LLP
1950 University Avenue, 4th Floor
East Palo Alto, CA 94303
Direct: +1 650.798.3617
Fax: +1 650.429.2078
CadyJ@howrey.com
www.howrey.com

Amsterdam Brussels Chicago Düsseldorf **East Palo Alto** Houston Irvine London Los Angeles Madrid
Munich New York Northern Virginia Paris Salt Lake City San Francisco Taipei Washington DC

From: Cady, Jim
Sent: Monday, December 20, 2010 5:32 PM
To: Ben Cannon
Cc: Ghajar, Bobby; Renojo, Ro
Subject: FW: PayPal - Opposition against Trademark Applications for GUNPAL and GPAL

Dear Mr. Cannon,

This is a reminder that we need your response to our message below. We have not received your responses to our discovery requests, not have we received your initial disclosures.

Please respond no later than this Wednesday, December 22, 2010, and let us know when we will receive your responses and documents.

1/14/2011

Regards,
Jim

James R. Cady
Senior Associate

HOWREY LLP
1950 University Avenue, 4th Floor
East Palo Alto, CA 94303
Direct: +1 650.798.3617
Fax: +1 650.429.2078
CadyJ@howrey.com
www.howrey.com

Amsterdam Brussels Chicago Düsseldorf **East Palo Alto** Houston Irvine London Los Angeles Madrid
Munich New York Northern Virginia Paris Salt Lake City San Francisco Taipei Washington DC

From: Cady, Jim
Sent: Friday, December 10, 2010 6:03 PM
To: 'Ben Cannon'
Cc: Ghajar, Bobby; Renojo, Ro
Subject: FW: PayPal - Opposition against Trademark Applications for GUNPAL and GPAL

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If you mailed us your initial disclosures, responses and accompanying documents, we have not yet received them. Please advise and let us know when we will receive the responses. We ask that you get back to us no later than Tuesday, December 14, 2010.

Regards,
Jim

James R. Cady
Senior Associate

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Amsterdam Brussels Chicago Düsseldorf **East Palo Alto** Houston Irvine London Los Angeles Madrid
Munich New York Northern Virginia Paris Salt Lake City San Francisco Taipei Washington DC

From: Renojo, Ro
Sent: Monday, October 04, 2010 6:07 PM
To: ben.cannon@gpal.net
Cc: Cady, Jim; Ghajar, Bobby
Subject: PayPal - Opposition against Trademark Applications for GUNPAL and GPAL

Dear Mr. Cannon:

Attached please find PayPal, Inc.'s Initial Disclosures and First Set of Discovery Requests.

Ro Renojo
Secretary to JAMES R. CADY
TRADEMARK DEPARTMENT

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EXHIBIT B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PayPal, Inc.,	§	PAYPAL, INC.'S INITIAL
	§	DISCLOSURES
Opposer,	§	
	§	Consolidated Oppositions:
v.	§	Opposition No. 91194547
	§	Opposition No. 91195303
The Cannon Group of Companies	§	
dba GunPal, Inc.,	§	
	§	
Applicant	§	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

PAYPAL INC.'S INITIAL DISCLOSURES

Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, Opposer, PayPal, Inc. ("PayPal") hereby provides this initial disclosure to Applicant, The Cannon Group of Companies d/b/a Gunpal ("Applicant").

PayPal reserves the right to supplement or amend these disclosures upon further discovery in this case. Further, these initial disclosures do not waive PayPal's right to object to the disclosure of any information or documents on any of the grounds, including, but not limited to, privilege, relevance, or as otherwise provided by the Federal Rules of Civil Procedure.

1. Individuals Likely To Have Discoverable Information

The following individuals are likely to have discoverable information that PayPal may use to support its claims and defenses:

- a. Amanda Pires, Senior Director Communications, Brand and Events, is knowledgeable about PayPal's business, and the renown, marketing, and use of the PAYPAL mark, may be contacted through Howrey.
- b. All persons listed in Applicant's Initial Disclosures
- c. Other Witnesses.

PayPal believes that other individuals may have discoverable information, such as investors and other third parties involved with Applicant. PayPal reserves the right to supplement this initial disclosure with the identity of such third parties and other relevant witnesses identified through the course of discovery.

2. Documents Related To Disputed Facts

PayPal has at its place of business possession, custody and control of the following categories of documents it may use in support of its claims and defenses:

- a. documents relating to PayPal's use and promotion of the PAYPAL marks;
- b. documents relating to PayPal's various marketing channels;
- c. documents relating to the sales, advertising, and marketing efforts that support the strength and fame of the PAYPAL marks as well as its trademark registrations.
- d. documents listed in Applicant's Initial Disclosures.

PayPal reserves the right to supplement this initial disclosure with additional categories of documents it may use to support its claims.

3. Damages

Fed. R. Civ. P. 26(a)(1)(A)(iii) is inapplicable in the trademark opposition proceeding, as PayPal does not presently seek damages beyond abandonment of the subject application.

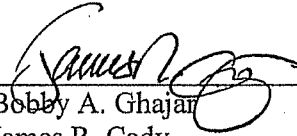
///

///

4. **Insurance**

Fed. R. Civ. P. 26(a)(1)(A)(iv) is inapplicable, as PayPal seeks abandonment of the subject application.

DATED: October 14, 2010



Bobby A. Ghajar

James R. Cady

HOWREY LLP

550 South Hope Street, Suite 1100

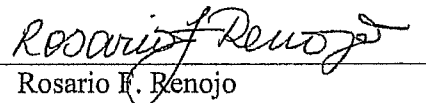
Los Angeles, CA 90071

(213) 892-1800

Attorneys for Opposer
PayPal Inc.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing PAYPAL INC.'S INITIAL DISCLOSURES was electronically served this 4th day of October, 2010 on Benjamin P. Cannon, CEO, The Cannon Group of Companies, Inc. d/b/a GunPal, Inc. at his email address ben.cannon@gpal.net.



Rosario F. Renojo

EXHIBIT C

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PayPal, Inc.,

Opposer,

v.

The Cannon Group of Companies
dba GunPal, Inc.,

Applicant

§
§
§
§
§
§
§
§
§
§

**PAYPAL, INC.'S FIRST SET OF
INTERROGATORIES**

Consolidated Oppositions:

Opposition No. 91194547

Opposition No. 91195303

Commissioner for Trademarks
P. O. Box 1451
Alexandria, VA 22313-1451

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Section 2.120 of the Trademark Rules of Practice (C.F.R. §2.120), Opposer, PayPal, Inc. ("Opposer"), hereby propounds the following interrogatories to Applicant, The Cannon Group of Companies doing business as GunPal ("Applicant"). These interrogatories are to be answered fully and separately, in writing, and under oath by Applicant or an agent of Applicant authorized to give answers on its behalf. Answers to these interrogatories must be served within the time prescribed by the Federal Rules of Civil Procedure and Rules of Practice in Trademark Cases.

DEFINITIONS

The following definitions shall apply to the interrogatories and document requests that follow:

A. The terms "Applicant," "The Cannon Group," "GunPal, Inc.," "you," and "your" refer to Applicant, The Cannon Group of Companies dba GunPal, Inc., and any parent company owning all or part of Applicant, any subsidiary, joint venture, partnership or other business

cooperation involving Applicant, and any related company, as well as to the present and former directors, officers, agents, employees, in-house and outside counsel thereof, and other Persons under the control of Applicant, regardless of their affiliation or employment.

B. The terms "PayPal" and "Opposer" refer to Opposer, PayPal, Inc.

C. The terms "Action" and "Opposition" shall mean the oppositions filed by PayPal, Inc. v. The Cannon Group of Companies d/b/a GUNPAL, Opposition Nos. 91194547 and 91195303.

D. The term "documents" is used in its customary broad sense to mean all non-identical copies of all hard-copy documents or electronically stored information within the scope of Fed. R. Civ. P. 34, including, without limitation, CDs, e-mails, information stored on hard drives, back-up tapes, or other electronic means, reports and/or summaries of interviews; reports and/or summaries of investigations; opinions or reports of consultants; opinions of counsel; communications of any nature including internal company communications; memoranda; notes; letters; e-mail; agreements; reports or summaries; brochures; pamphlets; advertisements; circulars; trade letters; press releases; drafts of documents and revisions of drafts of documents and any written, printed, typed or other graphic matter of any kind or nature; drawings; photographs; charts; electronically stored data; and all mechanical and electronic sound recordings or transcripts thereof, in the possession and/or control of you or your employees or agents, or known to you to exist, and shall include all non-identical copies of documents by whatever means made and whether or not claimed to be privileged or otherwise excludable from discovery. By way of illustration only and not by way of limitation, any document bearing on any sheet or side thereof any marks, including, but not limited to, initials, stamped indicia, comment or notation of any character and not a part of the original text or any reproduction thereof, is to be considered a separate document. In the case of machine-readable documents, identify the specifications and/or common name of the machine on which the document can be read such as "VHS videotape," "MS DOS (IBM) PC using Microsoft Word 2003 or WordPerfect," "Adobe Acrobat," or the like.

E. The term "date" shall mean the exact day, month and year, if ascertainable, or if not, the best approximation, including the relationship to other events.

F. The term "application" or its plural refers to trademark applications filed with the United States Patent and Trademark Office. The term "registration" or its plural refers to trademark registrations issued by the United States Patent and Trademark Office.

G. The terms "relating," "referring," "referencing," "reflecting," "concerning" and "regarding" shall mean comprising, constituting, setting forth, evidencing, concerning, referencing, alluding to, responding to, commenting on, in respect of, about, explaining, supporting, discussing, showing, describing, analyzing, directly or indirectly mentioning or describing, pertaining or referring to, being connected with, reflecting upon and resulting from the stated subject matter.

H. The terms "identify" and "identification" when used in reference to a document mean to state its date, type (*e.g.*, memo, telecopy, email), and its authors, addressees, recipients, title, if any, and, if no title, a brief description of the subject matter of the document, its present or last known location, and the identity of the person who has possession or control of the document. If any document once was, but is no longer, in your possession, custody, or control, state what disposition was made of it and the reason for such disposition. If any document has been destroyed, state (a) the date of its destruction, (b) the reason for its destruction, (c) the identity of the persons who destroyed it and (d) any retention policy directing its destruction.

I. The term "identify" when used in reference to a date shall mean to state the day, month and year on which an event took place.

J. The terms "identify" and "identification" when used in reference to a natural person mean to state his full name, residence and business telephone numbers, present residence and business addresses if known, present or last known title, position and business affiliation, and present or last known (designating which) affiliation with Applicant, if any. In the case of a present or past employee, officer or director or agent of Applicant, also state the person's period of employment or affiliation with Applicant, and his or her present or last known position during

his or her affiliation with Applicant. Once a person has been identified in compliance with the paragraph, only the name of that person needs to be listed in response to later discovery requesting the identification of the person.

K. The terms “identify” and “identification” when used in reference to a person other than a natural person mean to state the full and official name of the business entity, its present and/or last known (designating which) principal place of business, the present or last known (designating which) main telephone number of such business entity, state of incorporation, if any.

L. The terms “person” and “party” shall mean any natural person, individual, corporation, partnership, proprietorship, group, association, organization, business entity, governmental body, agency, any other type of organization or entity, and any agent of the foregoing.

M. The term “communication” shall mean the transmittal of information in the form of facts, ideas, inquiries or otherwise.

N. The term “third party” shall refer to any Person except Applicant or Opposer.

O. The term “any” should be understood in either its most or its least inclusive sense as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside its scope.

P. The terms “advertisement,” “advertising,” “marketing” and “promotion” shall include, without limitation, any media and means used to promote goods and services.

Q. Applicant’s GUNPAL Mark refers to the trademark as shown in United States Application Serial No. 77/784,325.

R. Applicant’s GPAL Mark refers to the trademark as shown in United States Application Serial No. 77/896,153.

S. Opposer’s PAYPAL Marks refers to the trademarks as shown in United States Registration No. 2,646,490; 2,879,561; 2,959,971; 3,069,209; and 3,680,256; and Trademark Application Serial No. 77/856,538.

T. The term "GUNPAL Services" refers to products and services sold, marketed, distributed by or offered by or for Applicant to "GPAL" and "GUNPAL" Marks.

U. In the following discovery requests, unless the context of the question dictates a broader or different time reference, the questions refer to the time beginning with the earliest date upon which Applicant first used Applicant's GUNPAL Mark or GPAL Mark, as applicable.

V. All references in these interrogatories and discovery requests to "commerce" signify commerce that may lawfully be regulated by the United States Congress.

W. The singular shall be deemed to include the plural and vice versa; the disjunctive ("or") shall be deemed to include the conjunctive ("and"); and the conjunctive ("and") shall be deemed to include the disjunctive ("or").

X. In the following interrogatories and discovery requests, the geographic scope of the requests is limited to the United States, unless otherwise indicated.

INSTRUCTIONS

The following instructions apply to the discovery requests below and should be considered as part of each such request:

1. If any information or documents are withheld under a claim of privilege, state the nature of the privilege claimed and provide sufficient information to permit a full determination of whether the claim is valid. For allegedly privileged documents, provide the following: (a) the type of document; (b) an identification of the sender and the recipients of the document; (c) the relationship of the sender and recipients to each other; (d) the date of the document; (e) a description of the contents or nature of the document; (f) the number of the discovery request to which the document is responsive; and (g) a statement of the basis for the asserted claim of privilege.

2. If Applicant objects to any subpart or portion of a request for information or documents, or objects to providing certain information requested, state Applicant's objection and

answer the unobjectionable subpart(s) of the request for information and documents and/or supply the unobjectionable information or documents requested.

3. If any of the following requests for information or documents cannot be responded to in full after exercising reasonable diligence to secure the information or documents, please so state, supply the information or documents for those portions Applicant is able to answer, and supply whatever information or documents Applicant has concerning the portion which cannot be answered in full. If Applicant's response is qualified in any particular respect, set forth the details of such qualification.

4. With regard to identifying or identification of documents pursuant to the definition and instructions set forth above, Applicant may, in lieu of such identification, produce the document itself, identifying the individual file keeper and marked with the number of the interrogatory to which it is responsive, for inspection and copying by Opposer at the time Applicant serves its answers to these interrogatories. Once a document has been identified in compliance with this paragraph, only the title or other abbreviated, clear identifier of the document needs to be listed in response to later discovery requesting the identification of the document.

5. When an interrogatory asks you to "identify" a communication, such identification shall state the date, the communicator, the recipient of the communication, the nature of the communication, place(s) of the transmission of information, mode of transmission (e.g., face-to-face or telephone discussion or email exchange), individuals privy to the transmission and what each person stated.

6. When an interrogatory asks you to "identify" a thing, including but not limited to products or physical things, such identification shall state a complete description of the thing, including its common designation, its composition, its physical description, its product identification number and any other distinguishing characteristics.

7. In answering these interrogatories, furnish all information available to you, including information in the possession of your employees, agents, attorneys, consultants,

investigators for your attorneys, or information otherwise subject to your possession and/or control, and not merely information within your own personal knowledge.

8. If Applicant objects to any subpart or portion of an interrogatory or objects to providing certain information requested, state Defendant's objections and answer the unobjectionable subpart(s) of the interrogatories and supply the unobjectionable information requested.

9. If any of the following interrogatories cannot be responded to in full after exercising reasonable diligence to secure the information, please so state, supply the information for those portions Applicant is able to answer and supply whatever information Applicant has concerning the portion which cannot be answered in full. If Applicant's response is qualified in any particular respect, set forth the details of such qualification.

INTERROGATORIES

INTERROGATORY NO. 1:

State the earliest date of use of the GUNPAL Mark and GPAL Mark in any manner, in any geographic location that Applicant intends to rely upon for priority in this proceeding, and describe in detail the circumstances and facts giving rise to such alleged actual or constructive priority rights, specifically including, but not limited to, a description of the mark as used, where and how it was used, and identify Persons knowledgeable thereof.

INTERROGATORY NO. 2:

State when Applicant ceased using its GUNPAL Mark and the trade name GunPal and the reasons why Applicant ceased to offer or market its services under the GUNPAL Mark and/or the trade name or fictitious name GunPal, Inc., and identify the Persons knowledgeable thereof.

INTERROGATORY NO. 3:

Identify with particularity each type of good or service that has been marketed, promoted, sold, or that is currently being marketed, promoted or sold, and that Applicant plans to market, promote or sell in connection with Applicant's GUNPAL Mark and GPAL Mark, and for each service offered under the GUNPAL Mark and/or GPAL Mark.

INTERROGATORY NO. 4:

State all facts and describe the details regarding the operation of Applicant's online payment processing services, including but not limited to: how each transaction is processed, how Applicant's software works, what security protections Applicant provides its customers, identification of all credit card companies and/or banks that participate in or fund Applicant's services, how Applicant maintains information relating to each transaction, and what third party companies or websites currently provide or at one point provided these services, and identify all persons under the employ or former employ of Applicant with knowledge thereof.

INTERROGATORY NO. 5:

Explain in detail how Applicant conceived, selected, developed, adopted and arrived at the selection of the GUNPAL Mark and GPAL Mark including, but not limited to the timing of the process, Applicant's knowledge of PayPal during the process, the alternatives considered, whether Applicant obtained any advice of counsel relating to the names, and the factors used or considered in selecting the terms GUNPAL and GPAL, and identify Persons knowledgeable thereof.

INTERROGATORY NO. 6:

For each of the products or services offered under the GUNPAL Mark or GPAL Mark state, on a monthly basis for each year from the date of Applicant's first use in any manner to the present year, the (a) total sales (in units/transactions and dollars), (b) sales, advertising and

marketing expenses, (c) average transaction or subscription price for sales of Applicant's services, and (d) channels of distribution for Applicant's GPAL and GUNPAL Services, and identify documents relating thereto and identify the Person(s) most knowledgeable thereof.

INTERROGATORY NO. 7:

Identify all advertising or promotional materials, whether in draft or final form, referring or relating to the GUNPAL Mark and GPAL Mark including, but not limited to print or electronic publications, on-line advertisements, Internet web sites or portals, radio and television advertisements, or other medium in which the advertisement or promotion appeared or is planned to appear, and identify all Persons knowledgeable thereof.

INTERROGATORY NO. 8:

Identify all advertising agencies, consultants, promotional agencies, public relations firms or any other third party whom Applicant has at any time, consulted, employed, retained, or hired in connection with the creation, advertising or promotion in the United States of the GUNPAL Mark and GPAL Mark.

INTERROGATORY NO. 9:

Identify and describe all markets, channels of distribution and channels of trade (*e.g.*, websites (by URL), trade shows, print publications, events and other outlets) in or through which the goods or services offered under the GUNPAL Mark or GPAL Mark will be or have been sold, used, displayed, marketed, advertised and promoted, and identify the Person(s) most knowledgeable thereof.

INTERROGATORY NO. 10:

Describe the geographic scope of Applicant's past, present and planned distribution and sales of goods or services offered under the GUNPAL Mark and GPAL Mark respectively.

INTERROGATORY NO. 11:

Identify the target consumers for which Applicant has marketed and sold, markets and sells, or plans to market and sell its goods or services branded under or in connection with Applicant's GUNPAL Mark and GPAL Mark respectively, and identify the Person(s) most knowledgeable thereof.

INTERROGATORY NO. 12:

State whether Applicant ever conducted any type of search or investigation relating or referring to the markets for and consumers of online payment and payment processing services.

INTERROGATORY NO. 13:

For each search or investigation identified in Interrogatory No. 12 above, state or identify: (a) the date such search or investigation was conducted, (b) the results of such search or investigation, (c) the Person or organization conducting such search or investigation, (d) to whom such search or investigation results were communicated, and (e) all opinions and other documents relating to such search or investigation.

INTERROGATORY NO. 14:

Describe how Applicant first learned of Opposer and Opposer's PAYPAL Marks, and identify each Person presently or formerly employed by Applicant with such knowledge.

INTERROGATORY NO. 15:

Identify each communication between Applicant and Opposer, including for each such communication, the dates of such communication, the identities of the individuals who participated in such communication on behalf of both Applicant and Opposer, and the substance of each such communication.

INTERROGATORY NO. 16:

Identify each and every communication you have had with any third party referring in substance or effect to PayPal, the PAYPAL Marks, PayPal's objections against Your use of the GUNPAL and GPAL Marks, or PayPal's online payment processing services.

INTERROGATORY NO. 17:

Identify how many hits (*i.e.*, visits by computer users) per month Applicant receives to its websites www.gunpal.com and www.gpal.net.

INTERROGATORY NO. 18:

Describe any and each instance when a person commented on the similarity between Applicant's GUNPAL mark or GPAL Mark on the one hand, and Opposer's PAYPAL Marks on the other hand, or inquired whether there is any association or connection between them, or otherwise made a statement about any belief that PayPal's services come from Applicant, or that products or services bearing Applicant's GUNPAL Mark or GPAL Mark come from PayPal, and for each instance, identify the comment, inquiry, statement, or act, the person who made it, the date it as made, and all persons knowledgeable thereof.

INTERROGATORY NO. 19:

Identify with specificity any and all third party uses of marks that incorporate the suffix "PAL" on or in connection with online payment processing services that you contend are similar to Opposer's PAYPAL Marks or otherwise demonstrate commercial weakness of Opposer's PAYPAL Marks, including for each, the scope and extent of such use, as well as any or all other facts and documents that support your contention that such use is similar to the PAYPAL Marks.

INTERROGATORY NO. 20:

If Applicant intends to rely upon the opinion of an expert in this action, provide the information that would be set forth under F.R.C.P. Rule 26(a)(2)(A) and (B) for each expert.

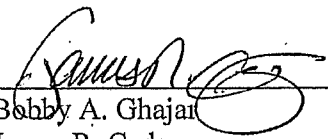
INTERROGATORY NO. 21:

Identify those persons who had more than a clerical role in the answering of the foregoing interrogatories or were involved in any search for documents in connection with said interrogatories and answering Opposer's First Set of Interrogatories.

INTERROGATORY NO. 22:

Identify all licenses that You hold (e.g. state, banking, federal, etc.) that relate to your provision of the GUNPAL or GPAL Services.

DATED: October 4, 2010


Bobby A. Ghajar
James R. Cady
HOWREY LLP
550 South Hope Street, Suite 1100
Los Angeles, CA 90071
(213) 892-1800

Attorneys for Opposer, PAYPAL INC.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing PAYPAL, INC.'S FIRST SET OF INTERROGATORIES was electronically served this 4th day of October, 2010 on Benjamin P. Cannon, CEO, The Cannon Group of Companies, Inc. d/b/a GunPal, Inc., at his email address ben.cannon@gpal.net.

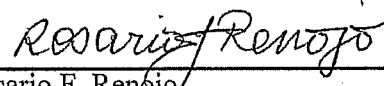

Rosario F. Renajo

EXHIBIT D

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PayPal, Inc.,	§	PAYPAL, INC.'S FIRST SET OF
	§	REQUESTS FOR ADMISSION
Opposer,	§	
	§	Consolidated Oppositions:
v.	§	Opposition No. 91194547
	§	Opposition No. 91195303
The Cannon Group of Companies	§	
dba GunPal, Inc.,	§	
	§	
Applicant	§	

Commissioner for Trademarks
P. O. Box 1451
Alexandria, VA 22313-1451

Opposer PayPal, Inc. ("Opposer"), by and through its attorneys, pursuant to Rule 36, Fed. R. Civ. P., and Rules 2.116 and 2.120 of the Trademark Rules of Practice, requests that Applicant, The Cannon Group of Companies doing business as GUNPAL, ("Applicant") make the following admissions within (30) days of service of these Requests for Admission.

DEFINITIONS

Applicant incorporates by reference the Definitions set forth in Applicant's First Set of Requests for Production of Documents.

REQUESTS FOR ADMISSION

REQUEST NO. 1:

Admit that Opposer has standing to oppose registration of the GUNPAL Mark and the GPAL Mark.

REQUEST NO. 2:

Admit that Opposer is the owner of the PAYPAL Marks.

REQUEST NO. 3:

Admit that the PAYPAL Marks are valid.

REQUEST NO. 4:

Admit that U.S. Trademark Registration No. 2,646,490 for PAYPAL, issued on November 5, 2002, is valid and incontestable.

REQUEST NO. 5:

Admit that Plaintiff uses its PAYPAL Marks as source indicators for its services.

REQUEST NO. 6:

Admit that PAYPAL is famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

REQUEST NO. 7:

Admit that Applicant operates or has operated a payment processing business under the names "GunPal" and "GPal" through websites located at www.gunpal.com and www.gpal.net.

REQUEST NO. 8:

Admit that Applicant and Opposer each offer payment processing services.

REQUEST NO. 9:

Admit that Applicant did not sell or offer to sell any products or services bearing the GUNPAL Mark or GPAL Mark until after PayPal sold products or offered services bearing the PAYPAL Mark.

REQUEST NO. 10

Admit that Applicant was aware of Opposer's PAYPAL mark before Applicant began using the GUNPAL Mark and GPAL Mark.

REQUEST NO. 11:

Admit that Applicant does not have permission or authorization from Opposer to use the GUNPAL and GPAL trade names, fictitious business names and marks.

REQUEST NO. 12:

Admit that Applicant uses or has used GUNPAL and GPAL as a source indicator for its services.

REQUEST NO. 13:

Admit that Applicant chose the GUNPAL Mark and GPAL Mark to imitate, call to mind or draw an association with the PAYPAL Marks.

REQUEST NO. 14:

Admit that the GUNPAL Mark and GPAL Mark are nearly identical to the PAYPAL mark in concept and presentation.

REQUEST NO. 15:

Admit that Applicant's uses of its stylized GUNPAL Mark and GPAL Mark are very similar to PayPal's stylized PAYPAL Marks.

REQUEST NO. 16:

Admit that Applicant's use of the GUNPAL or GPAL names and marks is likely to cause confusion, to cause mistake, and/or to deceive customers and potential customers of the parties, as to the origin, sponsorship, or approval of Applicant's products and services, or as to some affiliation, connection, or association of Applicant with PayPal.

REQUEST NO. 17:

Admit that Applicant's use of the GUNPAL and GPAL names and marks enables Applicant to trade on and receive the benefit of goodwill PayPal built up at great labor and expense over several years, and to gain acceptance for Applicant's products and services not

solely on their own merits, but on the reputation and goodwill of PayPal, its trademarks, and its products and services.

REQUEST NO. 18:

Admit that Applicant's use of GUNPAL and GPAL names and marks falsely suggests to the public an affiliation with PayPal.

REQUEST NO. 19:

Admit that Applicant's use of the GUNPAL Mark and the GPAL Mark dilutes the distinctiveness of the PAYPAL Marks.

REQUEST NO. 20:

Admit that Applicant's use of the GUNPAL and GPAL names and marks unlawfully removes from PayPal the ability to control the nature and quality of products and services provided under its marks and places the goodwill and valuable reputation of its PAYPAL name and mark in the hands of Applicant, over which PayPal has no control.

REQUEST NO. 21:

Admit that Applicant adopted and uses or has used the GUNPAL and GPAL names and marks knowing it is an infringement of PayPal's rights.

REQUEST NO. 22:

Admit that Applicant's use of the GUNPAL and GPAL names and marks was malicious, fraudulent, deliberate and willful.

REQUEST NO. 23:

Admit that Applicant is aware of instances of actual confusion in the marketplace relating to its use of the GUNPAL and GPAL names and marks and PayPal or its services.

REQUEST NO. 24:

Admit that PayPal has been damaged and continues to be damaged by Applicant's use of the GUNPAL and GPAL names and marks.

REQUEST NO. 25:

Admit that Applicant did not conduct any trademark clearance prior to adopting and using the GUNPAL Mark and GPAL Mark in U.S. commerce.

REQUEST NO. 26:

Admit that at the time of filing the applications to register the GUNPAL Mark and the GPAL Mark respectively, Applicant had not yet performed any services under these marks in the nature of "assisting others with the completion of financial transactions for stocks, bonds, securities and equities."

REQUEST NO. 27:

Admit that at the time of filing the applications to register the GUNPAL Mark and the GPAL Mark respectively, Applicant had not yet performed any services under these marks in the nature of "providing a virtual currency for use by members of an on-line community via a global computer network."

REQUEST NO. 28:

Admit that at the time of filing the applications to register the GUNPAL Mark and the GPAL Mark respectively, Applicant had not yet performed any services under these marks in the nature of "providing for the exchange of foreign currency, commodities, financial derivatives, interest rate products, and equities via the internet and intranet systems."

REQUEST NO. 29:

Admit that at the time of filing the applications to register the GUNPAL Mark and the GPAL Mark respectively, Applicant had not yet performed any services under these marks in the nature of "providing information in the fields of foreign currency, commodities, financial derivatives, interest rate products, and equities via the internet and intranet systems."

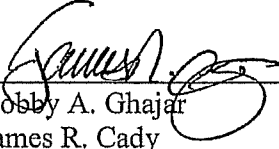
REQUEST NO. 30:

Admit that at the time of filing the applications to register the GUNPAL Mark and the GPAL Mark respectively, Applicant had not yet performed any services under these marks in the nature of "providing on-line stored value accounts in an electronic environment."

REQUEST NO. 31:

Admit that at the time of filing the applications to register the GUNPAL Mark and the GPAL Mark respectively, Applicant had not yet performed any services under these marks in the nature of "providing secure commercial transactions and payment options using a mobile device at a point of sale."

DATED: October 4, 2010

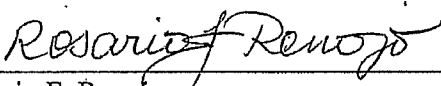


Bobby A. Ghajar
James R. Cady
HOWREY LLP
550 South Hope Street, Suite 1100
Los Angeles, CA 90071
(213) 892-1800

Attorneys for Opposer, PAYPAL INC.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing PAYPAL, INC.'S FIRST SET OF REQUESTS FOR ADMISSIONS was electronically served this 4th day of October, 2010 on Benjamin P. Cannon, CEO, The Cannon Group of Companies, Inc. d/b/a GunPal, Inc., at his email address ben.cannon@gpal.net.



Rosario F. Renojo

EXHIBIT E

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PayPal, Inc.,

Opposer,

v.

The Cannon Group of Companies
dba GunPal, Inc.,

Applicant

§
§
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**PAYPAL, INC.'S FIRST SET OF
REQUESTS FOR PRODUCTION
OF DOCUMENTS**

Consolidated Oppositions:
Opposition No. 91194547
Opposition No. 91195303

Commissioner for Trademarks
P. O. Box 1451
Alexandria, VA 22313-1451

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Section 2.120 of the Trademark Rules of Practice (C.F.R. §2.120), Opposer, PayPal, Inc. ("Opposer"), requests that Applicant, The Cannon Group of Companies doing business as GUNPAL ("Applicant"), make available for inspection, thirty days after the services of these requests, at the offices of Howrey LLP, 1950 University Avenue, 4th Floor, East Palo Alto, CA 94303, the documents described herein, subject to the following definitions and instructions.

DEFINITIONS

The following definitions shall apply to the document requests that follow:

A. The terms "Applicant," "The Cannon Group," "GunPal, Inc.," "you," and "your" refer to Applicant, The Cannon Group of Companies dba GunPal, Inc., and any parent company owning all or part of Applicant, any subsidiary, joint venture, partnership or other business cooperation involving Applicant, and any related company, as well as to the present and former

directors, officers, agents, employees, in-house and outside counsel thereof, and other Persons under the control of Applicant, regardless of their affiliation or employment.

B. The terms "PayPal" and "Opposer" refer to Opposer, PayPal, Inc.

C. The terms "Action" and "Opposition" shall mean the oppositions filed by PayPal, Inc. v. The Cannon Group of Companies d/b/a GUNPAL, Opposition Nos. 91194547 and 91195303.

D. The term "documents" is used in its customary broad sense to mean all non-identical copies of all hard-copy documents or electronically stored information within the scope of Fed. R. Civ. P. 34, including, without limitation, CDs, e-mails, information stored on hard drives, back-up tapes, or other electronic means, reports and/or summaries of interviews; reports and/or summaries of investigations; opinions or reports of consultants; opinions of counsel; communications of any nature including internal company communications; memoranda; notes; letters; e-mail; agreements; reports or summaries; brochures; pamphlets; advertisements; circulars; trade letters; press releases; drafts of documents and revisions of drafts of documents and any written, printed, typed or other graphic matter of any kind or nature; drawings; photographs; charts; electronically stored data; and all mechanical and electronic sound recordings or transcripts thereof, in the possession and/or control of you or your employees or agents, or known to you to exist, and shall include all non-identical copies of documents by whatever means made and whether or not claimed to be privileged or otherwise excludable from discovery. By way of illustration only and not by way of limitation, any document bearing on any sheet or side thereof any marks, including, but not limited to, initials, stamped indicia, comment or notation of any character and not a part of the original text or any reproduction thereof, is to be considered a separate document. In the case of machine-readable documents, identify the specifications and/or common name of the machine on which the document can be read such as "VHS videotape," "MS DOS (IBM) PC using Microsoft Word 2003 or WordPerfect," "Adobe Acrobat," or the like.

E. The term "date" shall mean the exact day, month, year, unless it is not ascertainable, in which case the best available approximation will suffice.

F. The term "registration" or its plural refers to trademark registrations issued by the United States Patent and Trademark Office.

G. The terms "relating," "referring," "referencing," "reflecting," "concerning" and "regarding" shall mean comprising, constituting, setting forth, evidencing, concerning, referencing, alluding to, responding to, commenting on, in respect of, about, explaining, supporting, discussing, showing, describing, analyzing, directly or indirectly mentioning or describing, pertaining or referring to, being connected with, reflecting upon and resulting from the stated subject matter.

H. The terms "identify" and "identification" when used in reference to a document mean to state its date, type (*e.g.*, memo, telecopy, email), and its authors, addressees, recipients, title, if any, and, if no title, a brief description of the subject matter of the document, its present or last known location, and the identity of the person who has possession or control of the document. If any document once was, but is no longer, in your possession, custody, or control, state what disposition was made of it and the reason for such disposition. If any document has been destroyed, state (a) the date of its destruction, (b) the reason for its destruction, (c) the identity of the persons who destroyed it and (d) any retention policy directing its destruction.

I. The term "identify" when used in reference to a date shall mean to state the day, month and year on which an event took place.

J. The terms "identify" and "identification" when used in reference to a natural person mean to state his full name, residence and business telephone numbers, present residence and business addresses if known, present or last known title, position and business affiliation, and present or last known (designating which) affiliation with Applicant, if any. In the case of a present or past employee, officer or director or agent of Applicant, also state the person's period of employment or affiliation with Applicant, and his or her present or last known position during

his or her affiliation with Applicant. Once a person has been identified in compliance with the paragraph, only the name of that person needs to be listed in response to later discovery requesting the identification of the person.

K. The terms “identify” and “identification” when used in reference to a person other than a natural person mean to state the full and official name of the business entity, its present and/or last known (designating which) principal place of business, the present or last known (designating which) main telephone number of such business entity, state of incorporation, if any.

L. The terms “person” and “party” shall mean any natural person, individual, corporation, partnership, proprietorship, group, association, organization, business entity, governmental body, agency, any other type of organization or entity, and any agent of the foregoing.

M. The term “communication” shall mean the transmittal of information in the form of facts, ideas, inquiries or otherwise.

N. The term “Third Party” shall refer to any person except Applicant or Opposer.

O. The term “any” should be understood in either its most or its least inclusive sense as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside its scope.

P. The terms “advertisement,” “advertising,” “marketing” and “promotion” shall include, without limitation, any media and means used to promote goods and services.

Q. Applicant’s GUNPAL Mark refers to the trademark as shown in United States Application Serial No. 77/784,325.

R. Applicant’s GPAL Mark refers to the trademark as shown in United States Application Serial No. 77/896,153.

S. Opposer’s PAYPAL Marks refers to the trademarks as shown in United States Registration No. 2,646,490; 2,879,561; 2,959,971; 3,069,209; and 3,680,256; and Trademark Application Serial No. 77/856,538.

T. The term "GUNPAL Services" refers to products and services sold, marketed, distributed by or offered by or for Applicant to "GPAL" and "GUNPAL" Marks.

U. In the following discovery requests, unless the context of the question dictates a broader or different time reference, the questions refer to the time beginning with the earliest date upon which Applicant first used Applicant's GUNPAL Mark or GPAL Mark, as applicable.

V. All references in these discovery requests to "commerce" signify commerce that may lawfully be regulated by the United States Congress.

W. The singular shall be deemed to include the plural and vice versa; the disjunctive ("or") shall be deemed to include the conjunctive ("and"); and the conjunctive ("and") shall be deemed to include the disjunctive ("or").

X. In the following discovery requests, the geographic scope of the requests is limited to the United States, unless otherwise indicated.

INSTRUCTIONS

The following instructions apply to the discovery requests below and should be considered as part of each such request:

1. If any information or documents are withheld under a claim of privilege, state the nature of the privilege claimed and provide sufficient information to permit a full determination of whether the claim is valid. For allegedly privileged documents, provide the following: (a) the type of document; (b) an identification of the sender and the recipients of the document; (c) the relationship of the sender and recipients to each other; (d) the date of the document; (e) a description of the contents or nature of the document; (f) the number of the discovery request to which the document is responsive; and (g) a statement of the basis for the asserted claim of privilege.

2. If Applicant objects to any subpart or portion of a request for information or documents, or objects to providing certain information requested, state Applicant's objection and

answer the unobjectionable subpart(s) of the request for information and documents and/or supply the unobjectionable information or documents requested.

3. If any of the following requests for information or documents cannot be responded to in full after exercising reasonable diligence to secure the information or documents, please so state, supply the information or documents for those portions Applicant is able to answer, and supply whatever information or documents Applicant has concerning the portion which cannot be answered in full. If Applicant's response is qualified in any particular respect, set forth the details of such qualification.

4. If any information is withheld under a claim of business confidentiality, state the nature of the confidentiality claimed and provide sufficient information to permit a full determination of whether the claim is valid. For allegedly confidential document, include: (a) the type of document; (b) an identification of the sender and the recipients of the document; (c) the relationship of the sender and recipients to each other; (d) the date of the document; (e) a description of the contents or nature of the document; (f) the number of the discovery request to which the document is responsive; and (g) a statement of the basis for the asserted claim of confidentiality.

REQUESTS

REQUEST NO. 1:

All documents and tangible things identified, referenced or described in, or consulted or relied on, in answering Applicant's responses to Opposer's First Set of Interrogatories served on Applicant in this proceeding.

REQUEST NO. 2:

Documents sufficient to describe in detail Applicant's goods and services sold under, or in association with, at any time, Applicant's GUNPAL Mark or GPAL Mark.

REQUEST NO. 3:

A specimen of each product, label, sign, display, trade dress, wrapper, packaging, point of sale material, website, brochure, flyer or other electronic or printed documents Applicant uses, has used, or plans to use in connection with Applicant's GUNPAL Mark or GPAL Mark.

REQUEST NO. 4:

Documents relating to the adoption, conception, selection or selection process of the terms GUNPAL or GPAL or relating to any terms other than GUNPAL and GPAL which Applicant considered adopting during that process.

REQUEST NO. 5:

Documents sufficient to show Applicant's total sales (in units and dollars) for each product or service branded under or in connection with Applicant's GUNPAL Mark and GPAL Mark respectively, on a monthly basis for each year from the date of Applicant's first use in any manner to the present year.

REQUEST NO. 6:

Documents sufficient to show Applicant's total sales, advertising and marketing expenses for each product or service branded under or in connection with Applicant's GUNPAL Mark and GPAL Mark respectively, for each year from the date of Applicant's first use in any manner to the present year.

REQUEST NO. 7:

Documents sufficient to show profit margin information for each of Applicant's products or services offered under the GUNPAL Mark and GPAL Mark respectively from the date of first use of each mark to the present, including, without limitation, each product's or service's:

- (a) total gross and net profit margin
- (b) average gross and net profit margin per unit;

- (c) product line gross/standard margin reports;
- (d) corporate and divisional profit and loss statements;
- (e) product line profit and loss statements; and
- (f) product line contribution margin reports.

REQUEST NO. 8:

Documents relating to the channels of trade, marketing channels, or channels of distribution in which Applicant sells or offers, or intends to sell or offer goods or services in connection with the terms GUNPAL and GPAL respectively.

REQUEST NO. 9:

All documents that relate or refer to Applicant's past, current or planned advertising or marketing of each product and service branded under or in connection with Applicant's GUNPAL Mark or GPAL Mark, including but not limited to: (1) representative specimens of all advertisements, promotional materials, press releases, web pages, and other documents or materials that Opposer uses, has used, or plans to use in the advertising and promotion of each mark referred to herein; (2) all marketing plans, media plans and other documents relating to Applicant's advertising and promotion strategy for Applicant's GUNPAL Mark and GPAL Mark respectively.

REQUEST NO. 10:

Documents relating to Applicant's proposed, intended or actual use of the GUNPAL Mark and GPAL Mark, whether internal or available to public or customers, including, without limitation, business plans, financial estimates, advertising designs and mock ups, marketing memoranda and materials, or advertising materials in the form of any online and/or Internet marketing or advertising, web sites, electronic kiosks, electronic commerce devices, trade shows, sales pitches, customer brochures, direct mail, contests, catalogs, labels, and packaging.

REQUEST NO. 11:

Documents sufficient to identify all trade shows, conventions, or expositions Applicant has attended, or intends to attend, during which it has promoted or intends to promote any products or services under the GUNPAL Mark or GPAL Mark.

REQUEST NO. 12:

Monthly website traffic reports for any of your website pages that depict or refer to the GUNPAL Mark and GPAL Mark respectively, from creation to present, including but not limited to www.gunpal.com and www.gpal.net.

REQUEST NO. 13:

All documents referring or relating to your purchase of any keywords, meta-tags, or sponsored advertisements relating to internet search engines such as Google, Yahoo!, Bing, or any other internet search engine.

REQUEST NO. 14:

All documents referring or relating to market studies or analysis about your online advertising or marketing, including but not limited to, advertising or marketing through Google Adwords, Google Sponsored Links, or any keyword searching on Google, Yahoo!, Bing or any other internet search engine.

REQUEST NO. 15:

Documents sufficient to show the geographic scope of Applicant's past, present and planned distribution and sales of goods or services branded under or used in connection with Applicant's GUNPAL Mark and GPAL Mark respectively.

REQUEST NO. 16:

Documents referring or relating to your contracts and agreements that third parties that relate to the provision of your GUNPAL or GPAL Services.

REQUEST NO. 17:

Documents sufficient to show all of the websites on which you have indirectly or directly promoted or advertised Your GUNPAL or GPAL Services.

REQUEST NO. 18:

Documents sufficient to show all of the entities that have provided you with endorsements or information that You have used in marketing or press releases that relate or refer to Your GUNPAL or GPAL Services.

REQUEST NO. 19:

Documents that support or relate to the allegations in Your Answer to PayPal's Notice of Opposition against the GUNPAL Mark, including each of Your Affirmative Defenses.

REQUEST NO. 20:

All documents that refer or relate to each third party use, past or present, known to Applicant of any name or mark comprised in whole or in part of the word PAL for goods and services similar to, related to those on which Applicant has used, uses, or plans to use in connection with Applicant's GUNPAL Mark or GPAL Mark.

REQUEST NO. 21:

All documents relating to any investigation, research, search, survey, poll, or study of any kind (e.g., formal or informal trademark availability searches, trademark dilution searches, private investigations into use, consumer awareness surveys, marketing surveys, focus group surveys) that Applicant has conducted or has knowledge of regarding any name or mark comprised in whole or in part of the words PAYPAL, GUNPAL or GPAL, or pertaining to any of the goods, services, or markets for the products or services identified in connection with any of the aforementioned marks.

REQUEST NO. 22:

Documents relating to any opinion requested by or received by Applicant relating to: Applicant's use or adoption of the terms GUNPAL and GPAL, Applicant's right to use or register any marks or designations consisting of or including the terms GUNPAL and GPAL, or whether Applicant's use or adoption of the terms GUNPAL and GPAL would or would not infringe upon the rights of any other entity or Person, or Applicant's ability to refer to PayPal or the PayPal Services in the promotion of Applicant's own services.

REQUEST NO. 23:

All documents and things referring or relating to the consideration, commissioning, selection, creation, drafting, editing, or adoption of the GUNPAL and GPAL name(s), mark(s), logo(s) and domain name(s), including but not limited to the GunPal, Inc. trade name or fictitious name, the GPAL, Inc. trade name or fictitious name, the www.gunpal.com and www.gpal.net websites, the GUNPAL Mark, the GUNPAL logo, the GPAL Mark, and the GPAL logo.

REQUEST NO. 24:

Documents relating to the adoption, conception, selection or selection process of the GUNPAL Mark and GPAL Mark or relating to any terms other than GUNPAL or GPAL which Applicant considered adopting during that process.

REQUEST NO. 25:

Documents relating your earliest use of the GUNPAL Mark and GPAL Marks, either alone, or in combination with other terms or designs, in any manner, either as trade names or as trademarks or service marks in connection with any good or service, including use in commerce and use anywhere in the United States.

REQUEST NO. 26:

Any and all documents or things reflecting or referring to any contemplated, draft,

possible, actual or future modification of the GUNPAL Mark or GPAL Mark, or the cessation of use of those marks.

REQUEST NO. 27:

All documents evidencing, referring or relating to Applicant's first knowledge of the PAYPAL Marks.

REQUEST NO. 28:

Documents relating to any communication and correspondence between Applicant and any third party – written, oral or electronic –regarding PayPal's trademarks.

REQUEST NO. 29:

All documents relating to any instances of actual or perceived confusion, mistake, or deception as to the source of Applicant's goods or services branded under or in connection with the GUNPAL Mark or GPAL Mark.

REQUEST NO. 30:

All documents in Applicant's possession, custody, or control that refer or relate to Opposer or its PAYPAL Marks, other than documents filed with the USPTO in this proceeding

REQUEST NO. 31 :

Any and all documents upon which you rely for any defense against the claim that Your infringement of Opposer's PAYPAL Marks was willful.

REQUEST NO. 32:

Print-outs of Internet web pages in which Applicant has discussed, advertised, promoted, sold or offered to sell each good or service branded under or in connection with Applicant's GUNPAL Mark and GPAL Mark respectively.

REQUEST NO. 33:

Documents relating to any application submitted by Applicant or any other person to any state agency or other governmental authority, including the U.S. Patent & Trademark Office, or domain name registrar for registration of the terms GUNPAL and GPAL as a trade name, corporate name, domain name, trademark or service mark.

REQUEST NO. 34:

All documents evidencing, referring or relating to mock-ups, sketches, preliminary drafts, or illustrations of Applicant's websites through which it offers its GUNPAL and GPAL Services (e.g., home page and any sub-pages).

REQUEST NO. 35:

Documents relating to all licenses, assignments or other transfers of any rights, to or from applicant, in Applicant's GUNPAL Mark, GPAL Mark, GunPal and GPal trade names, and domain names containing the terms GUNPAL or GPAL.

REQUEST NO. 36:

An organizational chart for Applicant and documents sufficient to show Applicant's corporate structure, senior managers, officers, directors and employees, and their respective titles or positions, annually from founding of the company to present.

REQUEST NO. 37:

Copies of any Applicant's document retention policies, including those which relate to email or other electronic media.

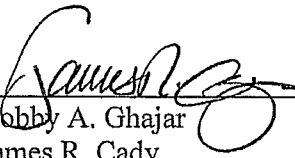
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REQUEST NO. 38:

All documents that constitute, relate or refer to any contacts or the results of contacts Applicant has had with experts in connection with this proceeding.

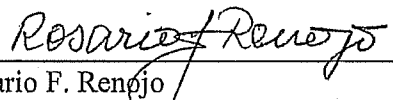
DATED: October 4, 2010


Bobby A. Ghajar
James R. Cady
HOWREY LLP
550 South Hope Street, Suite 1100
Los Angeles, CA 90071
(213) 892-1800

Attorneys for Opposer, PAYPAL INC.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing PAYPAL, INC.'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS was electronically served 4th day of October, 2010 on Benjamin P. Cannon, CEO, The Cannon Group of Companies, Inc. d/b/a GunPal, Inc., at his email address ben.cannon@gpal.net.


Rosario F. Renojo